

UNITED STATES SECTION
INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

UNITED STATES SECTION DIRECTIVE

Supervisory Action Required

Volume: II
Chapter: 309
Date : *April 28, 2003*

SUBJECT: Solicitation and/or Acceptance of Gifts, Favors, or Money From Contractors, Vendors or Others Doing Business or Seeking Business with the United States Government

TO: Commissioner, Deputy Commissioners, Commissioner's Staff, each Division in Headquarters, each Field Office, C&R, and Presidents AFGE Locals 3060 and 3309

CONTROL: Designated Agency Ethics Officer (915) 832-4791

309.1 **REQUIREMENT/AUTHORITY.** Federal Acquisition Regulation (FAR) 48 CFR part 3.101-2, Solicitation and acceptance of gratuities by Government personnel, prohibits all government employees from accepting or soliciting gifts where the same may be a conflict of interest or for withholding or undertaking official action. Similarly, the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635.101, Basic obligation of public service, prohibits the same behavior. See, Appendix A.

309.2 **SUPERCESSION.** This directive supercedes Headquarters Directive, Vol. II, Chapter 309, dated October 12, 1984.

309.3 **PURPOSE.** To transmit the text of applicable prohibitions and updated instructions.

309.4 **INSTRUCTIONS.** It is the policy of this agency that all employees shall be informed of these prohibitions. Specifically, each new employee shall be provided an orientation that must include being provided a copy of this Directive. Further, each Supervisor shall once annually within 30 days of the annual appraisal of employee performance remind his staff to review this Directive or any update thereof in the GroupWise Cabinet of Directives and shall require each such employee to confirm to him/her by email their having reviewed the Directive.

309.5 **RULES.** No exceptions to the prohibitions in the Code of Federal regulations referred to herein is intended by the United States Section. The rules that follow apply to permanent, temporary, and excepted service employees of the Section. They are also intended to prohibit acceptance or solicitation by members of the employee's family where

the same would be considered to influence an impermissible action or omission by the employee.

An infraction of the rules is subject to discipline in accord with agency published regulations. The rules for United States Section (Section) employees are as follow:

1. The general rule is that no gifts or favors of any kind or any value will be requested from, or accepted from contractors or vendors doing business with, or seeking to do business with, or from any third party seeking that formal action be taken or withheld by the United States Section. These gifts are referred to as “gifts from prohibitive sources”.
2. If gifts or favors are offered in person, there is a \$20 exception for gifts received from these prohibitive sources. The \$20 exception may be used to accept any gift that is not worth more than \$20. If you don’t know the actual value of an item, you may make a reasonable estimate. The exception allows you to accept but not ask for something worth \$20 or less. The rule allows you to accept gifts worth \$20 or less on a single occasion. This means if several gifts are given at the same time, their total value cannot exceed \$20. There is a \$50 aggregate limit for the calendar year. No cash can be accepted.
3. If gifts are received by mail or other carrier, they are to be forwarded immediately to the Executive Engineer with a note showing which office received the material, and the date it was received. The Executive Engineer, will arrange for the disposition of the items if required.
4. The above rules apply to items of any value, including caps/hats, jackets/windbreakers, shirts, pens, pencils, calendars, rulers, foods, beverages, quarters or housing, and transportation. Also included are discounts for personal or family purchases, and any other gift or favor.
5. Should coupons or trade stamps be received in conjunction with doing business with vendors, such coupons or trade stamps should also be forwarded to the Executive Engineer, for disposition in accord with rules governing gifts to agencies.

Please address any questions regarding this to the Designated Agency Ethics Officer or the Alternate Ethics Officer.

309.6 EFFECTIVE DATE. This directive is effective upon issuance.

FOR THE COMMISSIONER

Mario Lewis
Designated Agency Ethics Officer

Appendix A to Directive VOL. II, Chapter 309

Governing Regulations

48 C.F.R. 3.101-2

CODE OF FEDERAL REGULATIONS

TITLE 48--FEDERAL ACQUISITION REGULATIONS SYSTEM

CHAPTER 1--FEDERAL ACQUISITION REGULATION

SUBCHAPTER A--GENERAL

PART 3--IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF
INTEREST

SUBPART 3.1--SAFEGUARDS

3.101 STANDARDS OF CONDUCT.

Current through April 1, 2003; 68 FR 15904

3.101-2 Solicitation and acceptance of gratuities
by Government personnel.

As a rule, no Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who (a) has or is seeking to obtain Government business with the employee's agency, (b) conducts activities that are regulated by the employee's agency, or (c) has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Certain limited exceptions are authorized in agency regulations.

5 C.F.R. § 2635.101

CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XVI--OFFICE OF GOVERNMENT ETHICS
SUBCHAPTER B--GOVERNMENT ETHICS
PART 2635--STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE
EXECUTIVE
BRANCH
SUBPART A--GENERAL PROVISIONS
Current through April 1, 2003; 68 FR 15904

§ 2635.101 Basic obligation of public service.

(a) Public service is a public trust. Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

(b) General principles. The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.

(1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

(2) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(3) Employees shall not engage in financial

transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

(4) An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(5) Employees shall put forth honest effort in the performance of their duties.

(6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

(7) Employees shall not use public office for private gain.

(8) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

(10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment that conflict with official Government duties and responsibilities.

(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law

or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(c) Related statutes. In addition to the standards of ethical conduct set forth in this part, there are conflict of interest statutes that prohibit certain conduct. Criminal conflict of interest statutes of general applicability to all employees, [18 U.S.C. 201](#), [203](#), [205](#), [208](#), and [209](#), are summarized in the appropriate subparts of this part and must be taken into consideration in determining whether conduct is proper. Citations to other generally applicable statutes relating to employee conduct are set forth in subpart I and employees are further cautioned that there may be additional statutory and regulatory restrictions applicable to them generally or as employees of their specific agencies. Because an employee is considered to be on notice of the requirements of any statute, an employee should not rely upon any description or synopsis of a statutory restriction, but should refer to the statute itself and obtain the advice of an agency ethics official as needed.